

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WADE MAKELA and CHARLES
LARSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEPHANIE MAKELA,

Respondent-Appellant,

and

RICHARD MAKELA,

Respondent.

UNPUBLISHED

August 28, 2008

No. 282571

Genesee Circuit Court

Family Division

LC No. 05-120646-NA

Before: Davis, P.J., and Wilder and Borrello, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the children under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication not rectified), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood that child will be harmed if returned home). We affirm.

In December 2005, Wade, then 14 months old, was brought to the hospital suffering from fractures in both legs. When hospital personnel concluded that the injuries could not have been caused by a fall from a couch, as claimed by respondent-appellant's boyfriend, protective services filed an emergency petition to have the child removed from respondent-appellant's care. On December 20, 2005, petitioner filed a temporary custody petition. The child was removed from respondent-appellant's care, and placed with respondent-appellant's aunt, Laura Boyer.

In June 2006, respondent-appellant gave birth to Charles. Finding that respondent-appellant's home with her mother was not suitable for Charles, petitioner filed a supplemental petition on July 5, 2006, seeking to place Charles in the court's temporary custody. Charles was placed in Ms. Boyer's home with his sibling.

On November 2006, respondent-appellant moved-in with Ms. Boyer. On January 4, 2007, petitioner allowed respondent-appellant to assist in the care of the children, and arranged to have a Families First worker provide parenting services. On January 9, 2007, the Families First worker went to the home, and saw a mark on Wade. Respondent-appellant admitted that she had hit Wade, despite having signed an agreement with petitioner that she would not physically discipline the children. The worker, who was concerned about this injury and about the children's and the home's lack of cleanliness, made a referral to protective services. Based on the investigation that followed, petitioner moved to have the children removed from respondent-appellant's care and Ms. Boyer's home, and placed in foster care. The children were subsequently placed in foster care, with a family licensed by Lutheran Social Services.

On September 10, 2007, petitioner filed a supplemental petition, seeking to terminate respondent-appellant's parental rights. Proceedings on the petition commenced on December 6, 2007. The caseworker, Paige Raleigh, testified regarding respondent-appellant's compliance with her parent-agency agreement, which required that she: participate in counseling, in order to address issues of domestic violence, anger management, and boundary issues with men; participate in a psychological evaluation; obtain suitable housing; and complete parenting classes.

Respondent-appellant completed a round of psychological counseling. Ms. Raleigh was concerned that, despite completing this counseling, respondent-appellant acted in a manner that indicated that she had not benefited, noting her continued involvement in confrontations, sometimes involving physical altercations. Respondent-appellant agreed that she verbally lashed out at family members, and at the court, but argued that she had benefited from counseling, and was less likely to have outbursts.

Respondent-appellant completed a psychological evaluation, which showed that she was highly immature, with extreme co-dependency issues, and made poor choices in relationships. The evaluation indicated that respondent-appellant's prognosis was very poor and guarded. Based on the results of this evaluation, respondent-appellant was referred to a second round of counseling, this time for cognitive behavioral therapy, to help her to learn better the skills taught. But she never completed this counseling, with services terminated in November 2006 due to lack of attendance. In March 2007, Ms. Raleigh referred respondent-appellant for additional counseling, to address her anger management.

Respondent-appellant failed to obtain suitable, independent housing. During the period the children were in the court's temporary custody, she moved five times. She had independent housing for a short period, when she lived in a trailer at the trailer park in which her mother resided. But the trailer lacked heat and a working refrigerator. At the time of the December 6, 2007, termination trial, respondent-appellant claimed that she had been living in a home with her boyfriend and his minor son since April 2007, and had created an extra bedroom in the basement, to address petitioner's concerns that the bedroom was too small for all the children. But respondent-appellant admitted that her name was not on the lease, and that she did not contribute towards the rent. Ms. Raleigh and Shawn Rubin, the foster care worker, both testified that respondent-appellant never requested any financial assistance for obtaining housing.

Respondent-appellant completed two sets of parenting classes. But Ms. Raleigh felt that, regardless of the number of parenting classes she completed, respondent-appellant lacked the

cognitive ability to parent the children safely. Ms. Rubin testified that respondent-appellant struck Wade during a supervised visit in April 2007, even after the child had been taken from her care after she had hit him. She was also concerned because respondent-appellant seemed unable to care for both children at the same time, although respondent-appellant regularly visited the children and wanted them back in her care. Wade was bonded to both her and his foster family.

The foregoing evidence establishes that, although respondent-appellant completed *some* of the services to which she was referred, she did not substantially comply with her parent-agency agreement, nor did she rectify the conditions that led to the initial adjudication. To the extent that respondent-appellant completed certain services, the evidence showed that she failed to benefit from these services. See *In re Gazella*, 264 Mich 668, 677; 692 NW2d 708 (2005). Similarly, the foregoing evidence demonstrates that respondent-appellant failed to provide proper care, and that there was a reasonable likelihood that the child would be harmed if returned home. Thus, the trial court did not clearly err in finding termination was appropriate under §§19b(3)(c)(i), (g), and (j). MCR 3.977(G)(3); MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, this same evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Alton T. Davis
/s/ Kurtis T. Wilder
/s/ Stephen L. Borrello